

[Paper given to the Theme School of International Justice and Human Rights, McMaster University, Canada, 14th February 1995]

The Social Poison of Individual Rights

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1. Individual rights within a legal system.

Let me begin by saying that I have no difficulty with individual rights in the sense of, for example, the right to enjoy unhindered access to one's dwelling from a public road; to be compensated if one is injured through the negligence of one's employer; the right to vote in a variety of elections if one is legally qualified to do so; to have one's muffler replaced as long as one owns one's car, if one has signed the appropriate contract with Midas Muffler; and so on. These carefully defined individual rights are necessary for the general benefit of everyone. They are adjusted in a practical way to the needs of our particular society at the present time, and there are well established procedures for deciding what these rights are and whether or not they have been violated. We can expect to find that every society will recognize some sorts of rights and associated duties of this type even if they have no written legal code.

2. Natural individual rights.

When I refer to individual rights as socially poisonous I am not therefore talking about specific legal rights like these, which are defined within the legal systems of actual societies, but about a very different notion of rights: of certain fundamental rights that are supposed to belong naturally or inherently to each individual as an individual, regardless of time or place, or the society the individual lives in, or its cultural values, simply because this individual is a human being. For example, some have claimed that the right to vote is not just a legal right, established by the laws of particular states for their citizens, but a right that exists even in the absence of such laws, as something belonging naturally to each and every human being, and the same has been said of many

other so-called rights, the right to property, to freedom of expression, to the pursuit of happiness, to a job, to an education, and so on.

3. This notion of rights is uniquely Western.

It is of course well known that *this* notion of rights is peculiarly Western, and not found in other civilizations. Attempts to apply it, for example, in Asia, the Middle East, and Africa have produced the response that this is an ethnocentric attempt to impose Western values on other cultures, just another example of cultural imperialism. So we must ask, therefore, is the notion of natural individual rights a real discovery about how we should live, like those made by Western science, or is it indeed, as claimed, an ethnocentric illusion?

4. Traditional view of all Old World civilisations.

Until the Renaissance, the Christian civilization of Europe shared basically the same moral assumptions as all the other literate civilizations of the world. Everyone was linked to everyone else by a network of *duties* based on one's social status and roles - of father, mother, soldier, priest, tenant, lord, and so on - and society was thought of as an organism, in which all should play their distinctive parts for the common good. In performing one's duties great emphasis was placed on the virtues, such as wisdom, and courage, and self-control as the necessary basis of knowing what one should do and being able to do it. Also, it was not supposed that every individual was naturally qualified to know best how to lead his or her life, but rather that we should follow the example and teaching of those who were experts in how to live, and all the great civilizations produced such leaders, who founded religious or moral traditions embodying those teachings.

It was also universally accepted in the ancient and medieval world that government existed for the benefit of the people, and that rulers had the moral duty to govern justly and righteously. But the practical problem was to get them to do this, and it can be said that in this area of social thought and practice Western society, by developing the idea of the rule of law from Magna Carta on, has made a very important and genuine contribution to civilization. But the rule of law, it should be noted, is about how society should be organized, and has no necessary connection with the idea of

natural individual rights.

5. The emergence of Western individualism.

With the breakdown in Western Europe of the old hierarchical social order in the 16th and 17th centuries, especially as the result of the growth of commercial forces, Western Europe diverged radically from this universal moral tradition, and a line of influential thinkers from then until the present day has exalted the liberty of the individual to a unique and unprecedented degree. Individuals were now treated as naturally free, and as only joining together in society to advance their own self-interest, a complete reversal of the traditional organic view.

6. Unorthodoxy of Western theory no argument against it.

However, the fact that Locke and other philosophers broke with traditional thought on the relation between society and the individual by itself proves nothing at all, because the traditional view could have been wrong. At the same time Western science was also breaking with traditional thought about nature, and we don't regard that as a valid criticism of science. So it is theoretically possible that while the new individualism was *associated* with certain fundamental economic and political changes, it was nevertheless a valid and objective contribution to knowledge in the same sense that Galileo's and Newton's were. Galileo's and Newton's ideas about nature were initially in the minority as far as the rest of the world was concerned, but they have turned out to be right; in the same way just because individualism, too, was opposed not only by traditional Christian thought, but by Islam, Judaism, Buddhism, Hinduism, and Confucianism, this does not mean that it must have been false. Counting heads is not the answer, and we have to ask what exactly this new theory of individual rights amounted to.

7. The philosophical absurdity of the theory of natural individual rights.

Locke thought he was making a new philosophical discovery when he claimed that the individual was prior to society, and had by nature a number of rights, especially those of property and liberty. But his argument (which I am not going into here) includes a number of assumptions about

God and also about ancient Greek and Roman ideas of natural law, and without these the whole idea of inherent individual rights that are prior to society falls apart. The idea of a right, let us say to property, that is inherent in every individual because that person is a human being is quite literally nonsensical. A right in this sense becomes a strange kind of invisible pseudo-physical quality radiating out from the individual, but which cannot be seen or measured. It also follows that such rights may be violated by anything, not just by other human beings. So if I have a natural right to my property this right is violated not only when other people take it, but when animals do as well - the mouse that eats the cheese in my kitchen, for example. Indeed, the lightning that burns down my house has violated my property rights as surely as the arsonist who puts a match to it.

This is ridiculous because rights, obviously, are simply types of *rules* about how we, as people, should behave to other people, and it is meaningless to talk about rules without at least some general social context in which those rules are to be applied and interpreted. So society comes before the individual in the philosophical sense that until you have a society you can't have rules about how people should behave to each other, and a rule can only exist when there is more than one person. For this reason the idea of a right as inhering in a single person is as philosophically absurd as the idea of a coin with only one side. Society also comes before individuals in the practical sense that individuals can only develop their potential as individuals, intellectually, morally, and physically, by being brought up in human society from birth. We know this from numerous studies of children raised by animals or in isolation which show that as a result they have no human qualities, but I shall return to this point later in more detail.

8. No objective way of proving that rights exist, or what they are.

The absurdity of trying to locate natural human rights in the individual is also shown by the fact that nobody has ever discovered any objective means of demonstrating what these rights are. Let us go back to property. Is this a natural individual right or not? If someone claims to own the house they are occupying in Hamilton there are precise legal procedures for establishing ownership, but what conceivable procedures of jurisprudence, of social science, of biology, or any other branch of knowledge can we imagine that would tell us whether the human individual has the inherent right to

own property? And the same can be said for all the other so-called inherent individual rights - to free speech, to migrate freely to other countries, to withdraw one's labour, to vote, and so on. I challenge anyone here who believes in the reality of inherent individual rights to tell us how they would set about proving or disproving the inherent right to own property, as a test case.

9. Society before individual: goods, not rights.

In other words, advocates of natural individual rights have got it all backwards: we have to start with society, and with human needs as social beings, and once we do this we find ourselves talking about *goods* rather than *rights*. What do I mean by this distinction? In the first place goods, unlike rights, are easy to demonstrate. I have said that human beings need society in the same fundamental sense that fish need water to survive. We can go a good deal further along these lines and show that rules and a stable social order, co-operation in daily living, mutual trust, being able to predict what other people will do, having disputes settled fairly, personal security, peaceful ownership of property, developing one's talents, and so on are, objectively speaking, human goods in the same obvious and demonstrable sense that health is good, because they are all aspects of our well-being in the context of social life.

10. Goods vary from one society to another.

But societies differ from one another, and also change over time, and it follows, secondly, that these goods will therefore not be identical for every society, or for every period of history - they are not universal and unqualified as rights are, because rights focus on the undifferentiated human being, an entirely abstract entity with no social substance whatever. Because goods, unlike rights, will vary from society to society, therefore the common ownership of land may be very appropriate for a hunting and gathering society, but quite impractical for a large agricultural society. Concerns about unemployment make good sense in our society, but are simply irrelevant in traditional New Guinea. Universal suffrage by secret ballot may be a good idea in our kind of complex industrial society but impossible for a feudal society, and so on. And we can defend universal suffrage in our kind of society not on the grounds that voting expresses the natural right to equality, or is part of the

social contract, but because in modern states it is an important practical device to prevent dictatorship, and also educates people in their social responsibilities.

This shows that we can agree with some of the positions of the rights advocates, but in terms of social goods. So, going back to property again, since the peaceful ownership of property is one of the goods of social life, it is reasonable to require the government to show good cause why ownership should be abrogated in specific cases for the public benefit - as when land is needed for a new road - and to pay compensation to the owner. But the obligation to pay compensation does *not* rest on any natural right which the owner has to the property; it derives from the fact that it would be unjust for the rest of us to enjoy the amenity of the new road at the expense of the owner. One can be opposed to the communal (so-called) ownership of property in modern industrial society not because it violates a natural right to property, but because communism is socially harmful - it destroys generosity and gratitude, what is the 'property' of all is cared for by none, and it inevitably produces an incompetent and tyrannical bureaucracy.

Or, let us consider the right to freedom of speech. The McMaster Senate recently adopted an excellent definition of academic freedom, drafted by Professor Howard. This states that the suppression of academic freedom would prevent the University from carrying out its primary functions, and these are the pursuit and dissemination of knowledge. 'This requires the freedom, within the law, to pursue what seem to be fruitful avenues of inquiry, and to engage in full and unrestricted consideration of any opinion, however unpopular or even abhorrent'. I entirely agree with this statement because it locates academic freedom squarely where it belongs - in the social function of a university, which is the pursuit of knowledge. This is a human good, but it is not a human right. Members of religious or political groups, for example, do not and should not have the same kind of freedom of expression as that rightly and properly enjoyed by academics because churches and political parties are a different kind of institution from universities. A Catholic priest who denies the existence of God, or says that the Devil has been much misunderstood, (or whatever the latest *avant garde* heresy may be); or a member of the NDP government who says trade unions should be abolished can quite properly be ordered to retract their opinions under pain of dismissal. On the other hand, an academic who argues that all knowledge is impossible should not be

penalized. The protection of academic freedom is particularly necessary since some of the most vicious persecutors of those with new ideas are academics themselves.

Nor does this statement about academic freedom claim that the pursuit of knowledge is a right that can or should be enforced without limit. Universities are funded by the public, and there is no obligation for the public to give universities all the money they would like in the pursuit of knowledge. The pursuit of knowledge, then, is one of an indefinite number of objective goods, like public health, a fair and efficient judicial system, and so on, and its place within the system has to be balanced against these other goods.

11. Civilisation and the individual.

These various social goods are therefore embodied in a number of different institutions, and also in a number of customs and traditions, that all go to make up a distinct social order or form of civilisation. I emphasised earlier that as human beings we are inherently social beings: we have a fundamental need for order and for a stable world that makes sense; hence, for example, the ongoing debate about the Canadian national identity. It is participation in the institutions and customs and traditions of our own society that shapes us as moral beings, but Western individualism is inherently opposed to any such emphasis on the value of institutions and customs, and intellectuals in particular are always ridiculing tradition as the refuge of the irrational and the inarticulate. John Maynard Keynes, who was neither irrational nor inarticulate, had this to say about the conflict between individualism and civilisation. Looking back in his later years on the liberal moral theory of his youth at Cambridge in the circle of Russell and Moore, he concluded that:

‘It was flimsily based, as I now think, on an *a priori* view of what human nature is like, both other people's and our own, which was disastrously mistaken.’ [It was a Utopian view, according to which the human race] ‘consists of reliable, rational, decent people, influenced by truth and objective standards, who can be safely released from the outward restraints of convention and traditional standards and inflexible rules of conduct, and left, from now onwards, to their own sensible devices, pure motives, and reliable intuitions of the good...We were not aware that civilisation was a thin and precarious crust erected by the personality and will of a very few, and only maintained by rules and conventions skilfully put across and guilefully preserved. We had no respect for traditional wisdom or the restraints of custom...It did not occur to us to respect the extraordinary accomplishment of our predecessors in the ordering of life...or the elaborate framework which they had devised to protect that order.’ (J.M.Keynes, *Two Memoirs*, 1949, pp. 98-100)

12. Why, then, to sum up, is the doctrine of individual rights so poisonous?

In general, they pervert the true relationship between society and the individual, so that the social order almost becomes a threat to individual well-being, instead of its basis. A number of specific evils follow from this whole attitude:

(i) In exalting the freedom of the individual against the claims of society, the doctrine of rights ignores the moral quality of the individual who is to exercise those rights. ('It's my life, isn't it? I can lead it how I like'.) However, freedom without wisdom, courage, self-control, and the other traditional virtues to guide its use has no value by itself.

(ii) Unlike goods, fundamental rights cannot be demonstrated, so their assertion is just a matter of subjective preference and these differences of opinion cannot be resolved by any rational method of inquiry. The fact that all sorts of 'fundamental' rights get included from time to time in various Charters and Bills of rights, from the American Constitution onwards, only goes to prove this point. There is no general agreement in these documents on what fundamental rights are, or how they have been discovered, and it is notorious that when conservative and liberal judges are called upon to interpret these rights they frequently come to the opposite opinions in the same cases. Issues like euthanasia, abortion, homosexuality, and the right of women to serve in combat are not really legal issues at all, but moral and political in nature, and while politicians are only too glad to find someone else to relieve them of the responsibility of dealing with them, the inevitable result is that we are requiring our judges to act as unelected politicians, as is only too evident in the United States. This can only weaken respect for the judicial system itself.

(iii) Because they are unproveable, rights become a limitless wish-list of things that people would like to have or to do. These become expressions of pure self-assertion at the expense of others and the general good, sometimes of the most preposterous sort. I will give an example of only one notorious Ontario instance, the claim that women have the fundamental human right to walk about in public bare-breasted. The fact that this case is still, I believe, before the courts is not the point. Were it not for the cultural climate of individual rights no one would think of bringing such cases at all. *[The Supreme Court of Ontario subsequently ruled that women do indeed have such a human right.]*

(iv) Rights are, in legal terms, prescriptive and infeasible. That is, they must be acted upon if they are violated, and they cannot be set aside as impractical or inconvenient. If I have the right to vote in a federal election I *must* be given facilities for doing so; if I have the right to a job, someone *must* be forced to give me one, and so on. The result is necessarily a very assertive and inflexible approach to disputes, with each party making its non-negotiable demands under the malignant shadow of the lawyers. It is not unreasonable to say that in consequence North American society, in particular, is being consumed by litigious mania.

(v) If I don't get what I want on my wish list, someone is to *blame*: they have violated my rights and must be made to pay. This inflames a sense of grievance against society and encourages individuals to adopt the posture of victim, even where no one is to blame and nothing practical can be done. The cult of victimhood has distorted our social perceptions to the extent that we are now on the verge of accepting a general right not to be offended, under the guise of preventing harassment. And as we all know, this is currently a major threat to the intellectual integrity of universities in particular.

(vi) Because rights are non-negotiable, they seriously hinder the rational discussion of social issues. To take an example that has recently been before the courts, and which sums up many of the things I have been saying about rights: does the requirement that university professors must retire at age 65 violate their human rights by discriminating against them on the basis of age? Clearly the rule does discriminate on the basis of age, but the obvious reasons for such a retirement policy are to maintain a balanced age distribution so that universities are not staffed by an ageing professoriate; to give young academics a chance of employment (which would also benefit the students), and to ease the financial strain on universities by not employing too many older professors at high salaries. These aims are beneficial to the academic profession as a whole, to the students, and to the taxpayers, but all these reasonable justifications are swept aside by the appeal to rights. 'Rights are trumps', as Dworkin has put it, but assertions of individual rights in cases like this are actually rhetorical devices by which a section of society tries to dramatise themselves as the victims of oppression, rather than as having to make a moderate sacrifice for the common good. In the overheated atmosphere of 'discrimination', sensible debate over social policy is in danger of being peremptorily silenced by simplistic moralizing.

In the same way, women have no fundamental right to serve in combat in the armed services. The relevant question is not ‘What are their rights as human beings?’, but ‘What effects will their presence have on the fighting efficiency, morale, and discipline of the units in which they serve?’. If it can be shown that women's presence would have a deleterious effect, then discrimination against them on the basis of gender would be perfectly justifiable.

(vii) Lastly, we come to the question of rights and responsibility.

The modern image of society as essentially composed of free individuals competing for their own interests, and following their own ideas of how to live, though repulsive, might deserve some respect if it were at least consistent, and if these sovereign individuals were to accept the responsibility for the consequences of their freely chosen acts. But as soon as our rugged individuals commit crimes, a strange thing happens - far from accepting their punishment, far from submitting to their just deserts, they suddenly plead that they have not really been responsible for their actions after all. As we know, all the resources of psychiatry and sociology will be employed to show that the most atrocious crimes are ‘a cry for help’, or that the criminal is actually a victim of society, so that ‘we are all guilty’. This attitude to crime has, of course, fundamentally undermined public respect for the judicial system in this and other Western societies. I am not referring only to criminal behaviour, however, but to a pervasive attitude throughout society, from politicians who no longer resign when their honour and their duty to the public require it, to the reluctance of universities to impose drastic penalties on students who cheat. The cult of the individual has reached its nadir, a degenerate infantilism, ladies and gentlemen, in which there is only self-indulgence without responsibility.

13. Rights as ethnocentric aberration.

It might be argued, however, that even if individual rights are philosophically untenable, they are still useful propaganda tools for embarrassing horrible regimes that maltreat their citizens. But it is precisely because they are philosophical nonsense that they will collapse under hostile scrutiny and be vulnerable to the charge that they are just an invention of Western culture. If we want to criticize tyrannical regimes we can do so without using concepts of individual rights but should appeal

instead to the traditional and universally accepted duty of governments to rule their citizens justly and benevolently.

The modern Western exaggeration of individualism is an example of a cultural phenomenon that is very familiar to the anthropologist. We are constantly finding in our studies of other cultures that some aspect of social relations is liable to become the focus of an obsessive elaboration - it may be ideas of purity and pollution, or ceremonial exchange, or complex kinship systems - but which the members of these cultures regard as utterly unquestionable and essential to life as they know it. We, too, must step outside the limitations of our own culture and recognize that we, likewise, have not been immune from this process, and have allowed ourselves to become swept up in an equally bizarre obsession with individual rights, at the expense of the general good.

Western individualism is not, then the sociological equivalent of the theories of Galileo and Newton, but an aberration that needs to be corrected, and we should return to the traditional view that what is of the first importance is doing our duty to others, and trying to be better people. Aristotle put it as follows: 'If *all* were to strive towards what is noble and strain every nerve to do the noblest deeds, everything would be as it should be for the common good, and everyone would secure for himself the goods that are greatest, since virtue is the greatest of goods'.

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